

GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Survey and Land Records Department – Sri P.Lakshmana Rao, Computer Draftsman Grade II for grant of promotion in the category of Surveyor in terms of orders issued in G.O.Ms.No.14, Rev. (SS) Dept., dt.3-1-1996 in relaxation of rule 3 of A.P. Survey and Land Records Subordinate Service Rules issued in G.O.Ms.No.102, Revenue (SS) Department dt:05.02.2001 and also in accordance with directions of Hon'ble High Court in WP No.32257/1998. dt:03.04.2002 - Orders – Issued.

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REVENUE (SS) DEPARTMENT

G.O.Rt.No. 1154 ,

Dated:01.08.2012

Read the following :-

1. From Sri P.Lakshmana Rao, C.D.Grade.II, Review Petition, dt: 3.9.2004.
2. Govt Memo.No.31060/SS-2/2004-1, dt:25.09.2004
3. From CSS&LR, Hyderabad, Rc.No.L4/5607/04, dt:23.11.2005.
4. Govt Memo.No.31060/SS-2/2004-7, dt:14.09.2011
5. From CSS&LR, Hyderabad, Rc.No.L2/5607/04, dt:04.02.2012.

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ORDER:-

In the reference 1st read above, Sri P.Lakshmana Rao, C.D.Grade.II, District Maintenance Unit, Srikakulam has filed review petition before the Government against the orders issued in Memo.No.L3/662/2004, dt:18.07.2004 by the Commissioner of Survey, Settlements & Land Records, A.P., Hyderabad and requested the Government to set aside the above said Memo and to issue appropriate orders by promoting him as Surveyor over and above the persons already promoted.

2. In the letter 3rd read above, the Commissioner of Survey, Settlements & Land Records, A.P., Hyderabad has stated that the Government have framed Rules for the A.P. Survey and Land Records, Subordinate Service Rules vide G.O.Ms.No.14, Revenue (SS) Department, Dt:03.01.1996, in supercession of the rules issued in G.O.Ms.No.601, Revenue, Dt:06.04.1964. The rules framed vide G.O.MS.No.14, Revenue (SS) Department, Dt:03.01.1996, were kept in abeyance by the Government vide G.O.Ms.No.107, Revenue (SS) Department, Dt:14.02.1997. Aggrieved by this Sri P.Lakshman Rao and others have approached the Hon'ble A.P.A.T. The Hon'ble A.P.A.T. vide orders Dt:20.08.1998 disposed off the OA with following observations:-

"There is nothing illegal or irregular in issuing the G.O.Ms.No.107, Dt:14.02.1997 by way of administrative instructions for keeping in abeyance the earlier rules issued in G.O.MS.No.14, Dt:03.01.1996 in order to take effective steps for bringing in suitable amendments to the rules, which will not effect the right of any categories of employee. Therefore, the interim orders Dt:09.04.1997 to maintain status quo are vacated and the OA is dismissed. However, if the respondents choose to fill up any essential posts pending amendments to old amended? Revised rules promotions effected shall be only on adhoc basis".

3. Aggrieved by these orders the individual has filed Writ Petition before the Hon'ble High Court and the Hon'ble A.P. High Court vide orders Dt:03.04.2003 in W.P.No.32257 of 1998 has issued following directions:-

"The Writ Petition is disposed directing the respondents herein to consider the grievance and claim of the petitioners on the basis that the rules notified in G.O.Ms.No.14, Dt:03.01.1996 were in operation between 04.01.1996 and 04.02.2001".

P.T.O.

4. Accordingly the individual has made an application to the appointing authority i.e., Regional Deputy Director, Survey and Land Records, Kakinada. The Regional Deputy Director, Survey and Land Records, Kakinada after examining the issue has rejected the request of the applicant mentioning the following reasons vide Memo No.A2/1337/2002, Dt:05.03.2003.

1. The petitioners are not qualified for promotion as Surveyor as they have not passed prerequisite Departmental test according to G.O.MS.No.14, Revenue (SS) Department, Dt:03.01.1996. They passed Surveyor Test (HG) Part-I & II but not Computer Draughtsman Test (HG) Part-I & II.
2. None of the juniors to the applicants were promoted as Surveyors ignoring seniority.

5. The individual has again filed contempt case in Hon'ble High Court challenging the order of the appointing authority. This contempt case was dismissed by the Hon'ble High Court vide orders Dt:04.04.2003 with following observations:-

"The Memo Dt:05.03.2003 which is made available for the perusal of the court by the petitioners themselves is self-explanatory. The respondents having considered the case pursuant to the directions of this court rejected the case of petitioners for further promotion as Surveyor on the ground that they have not passed the prerequisite departmental tests according to G.O.Ms.No.14, Revenue (SS) Department, Dt:03.01.1996.

In such view of the matter, we do not find any merit in this contempt case and the same shall stand accordingly dismissed".

This order however shall not preclude the petitioners from questioning the said order if he is so advised and in such an event, the same shall be considered on its own merits uninfluenced by the dismissal of the contempt case".

6. The Commissioner of Survey, Settlements & Land Records, A.P., Hyderabad has further stated that the individual filed an appeal petition before the Commissioner of Survey, Settlements and Land Records, A.P., Hyderabad against the orders passed by the Regional Deputy Director, Survey and Land Records, Kakinada vide Memo Dt:04.04.2003. This appeal petition was also examined and rejected by them vide Memo Rc.No.L3/662/04, Dt:18.07.2004, with an observations that "a candidate appointed as C.D. Grade-II, in case qualified for promotion to the next cadre / category i.e., C.D. Grade-I may be promoted to the next higher category i.e., Surveyor which is combined category of C.D. Grade-I & Surveyor as per G.O.Ms.No.14, Revenue (SS) Department, Dt:03.01.1996. But, there is no promoted candidate by over looking his seniors considering the qualifications he possessed".

7. In the letter 5th read above, the Commissioner of Survey, Settlements & Land Records, A.P., Hyderabad has further reported that the Para-13(a) (a) & (b) of G.O.Ms.No.187, General Administration (Ser.B) Department, Dt:25.04.1985 reads as follows:

"13. (a) Scope of review Departmental Promotion Committees:-

It has been decided that in respect of the following cases the matter should again be placed before the Departmental Promotion Committees for review, in addition to the circumstances mentioned in G.O.Ms.No.32, Genl.Admn.(Ser-B) Dept., Dt:22.01.1981.

contd....3

- (a) When eligible persons were omitted to be considered, (or)
- (b) Ineligible persons were considered by mistake, or"

The post of 'Surveyor' is a non-gazetted and non selection post. There is no Departmental Promotion Committee for promotion to the post of Surveyor. However, it is submitted that Sri P. Lakshmana Rao, former C.D.Grade.II was qualified for promotion to the cadre of Surveyor as per provisions under 5 of G.O.Ms.No.14, Revenue (SS) Department, Dt:03.01.1996. These Rules are subsequently replaced by new rules framed vide G.O.Ms.No.102, Revenue (SS.2) Department, Dt:05.02.2001, where no channel for promotion as 'Surveyor' from 'C.D.Grade-II' category is provided. The Rules notified in G.O.Ms.No.14, Revenue (SS) Department, Dt:03.01.1996, were in operation between 04.01.1996 to 04.02.2001. But, no person was promoted to the post of 'Surveyor' from the post of C.D.Grade-II during this operative period of G.O. by over looking the applicant. Hence, the instructions contained in para-13(a) (a) & (b) of G.O.Ms.No.187, General Administration (Ser.B) Department, Dt:25.04.1985 are not applicable to this case and requested the Government to reject the appeal petition filed by Sri P.Lakshmana Rao, former C.D.Grade-II against the orders issued vide CSS&LR's Memo Rc.No.L3/662/2004, Dt:18.07.2004 (or) to pass appropriate orders as deemed fit in the matter.

8. Government after careful examination of the matter, it is observed that the Division Bench of the A.P. High Court in State of A.P. vs. C. Srinivasulu Reddy (2003 (5) ALD 697) held that Government has passed a G.O. being G.O.Ms.No.354, dt:11.05.1990 itself that where a person's claim for promotion was not considered at the appropriate time, he would be entitled for notional promotion. Therefore, the tribunal was not wrong in coming to the conclusion that the benefit of notional promotion in terms of G.O.Ms.No.354, dt: 11.05.1990 would not be denied to the respondent on the ground that no junior to him had been promoted. Whether a junior was promoted or not is not consideration at all in terms of G.O.Ms.No.354 dt:11.5.1990. The only consideration under the G.O. is that whether a person was not considered at the time he should have been considered for any reason whatsoever. In view of the above observations of the High Court an employee is entitled for notional promotion when his claim was not considered at the appropriate time. Sri P.Lakshmana Rao was not promoted earlier in terms of the High Court Judgment due to mistake.

9. Accordingly, Government is here by accord permission to the Commissioner of Survey, Settlements & Land Records, A.P., Hyderabad to grant promotion to Sri P.Lakshmana Rao, Computer Draftsman Grade II in the category of Surveyor in terms of orders issued in G.O.Ms.No.14, Rev. (SS) Dept., dt.3-1-1996 in relaxation of rule 3 of A.P. Survey and Land Records Subordinate Service Rules issued in G.O.Ms.NO.102, Revenue (SS) Department dt:05.02.2001 and also in accordance with directions of Hon'ble High Court in WP No.32257/1998. dt:03.04.2002, If he otherwise eligible.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

ANIL CHANDRA PUNETHA
PRINCIPAL SECRETARY TO GOVERNMENT

To
The Commissioner of Survey, Settlements & Land Records,
A.P., Hyderabad.
The individual through Commissioner of Survey, Settlements &
Land Records, A.P., Hyderabad.
SC/SF.

// FORWARDED BY ORDER //

SECTION OFFICER